

VIRGINIA EMPLOYMENT COMMISSION

MEMORANDUM TO:

DATE 7/15/2008

Florida <u>X</u>	North Carolina <u>X</u>	Kentucky <u>X</u>	Pennsylvania <u>X</u>
Texas <u>X</u>	South Carolina <u>X</u>	West Va. <u>X</u>	Maryland <u>X</u>
Georgia <u>X</u>	Puerto Rico <u>X</u>	Delaware <u>X</u>	Other <u>Alabama</u>

FROM: Rural Services Manager  
Virginia Employment Commission  
P. O. Box 1358  
Richmond, Virginia 23211

SUBJECT: Request for Extension of Clearance Order No. VA 107345

Extension is requested for the 1 cop(ies) of the order which is/are attached,  
dated 7/15/2008 for 42, Farmworker, Fruit 403-687-010  
(No. of Openings) (Occupational Title and Code)

to be sent to the offices of your choice.

COMMENTS: Please indicate below the action taken by your office.

Michelle Abner  
(signature)

\* \* \* \* \*

DATE \_\_\_\_\_

The above request has been reviewed and action taken as indicated below:

ACCEPTED \_\_\_\_\_ Location(s) to which extend:

REJECTED \_\_\_\_\_ Reason for Rejection: \_\_\_\_\_

COMMENTS:

Number of additional copies required. \_\_\_\_\_

\_\_\_\_\_  
(signature)

**Agricultural and Food Processing Clearance Order**  
**Pedido de Empleados para Agricultura y Procesamiento de Alimentos**

**U.S. Department of Labor**  
**Employment and Training Administration**



O.M.B. Approval No. 1205-0134, Expires 08/31/2009

1. Employer's Name and Address (Number, Street, City, State, Zip Code, and telephone number) Nombre y Dirección del Empleador (Número, calle, ciudad, código postal y teléfono) Russell Orchards, LC 435 Dehaven Drive Clearbrook, VA 22624 540 662-1000	Industry Code / Código de Industria 0175	Job Order # / No. Orden de Empleo VA107345
	Occupational Title and Code / Título Ocupacional y Código Farmworker, Fruit 403.687-010	
	Clearance Order Issue Date / Fecha de Trámite:  7/15/08	
2. Location and Direction to Work Site / Dirección del lugar de trabajo Rt 37 East, left on Welltown Road, right on Dehaven Drive  (see attachment / para más detalles vea _____)	Job Order Expiration Date / Fecha de expiración: 10/04/08	
	6. Anticipated Period of Employment / Periodo Anticipado de Empleo  From/ Desde: 09/03/08 To / Hasta 11/05/08	
	7. No. of Worker's Requested / No. de Trabajadores Pedidos 42	
3. Location and Description of Housing / Dirección y Descripción de la Vivienda Cinder Block Building 801 Fairmont Avenue, Winchester VA  (see attachment / para más detalles vea 1)	8. Anticipated Hours of Work per Week / Horas Anticipadas de Trabajo por Semana Total: 44 Sunday / Domingo _____ Wednesday / Miércoles 8 Monday / Lunes 8 Thursday / Jueves 8 Tuesday / Martes 8 Friday / Viernes 8 Saturday / Sábado 4	
	9. Collect Calls Accepted/Se Aceptan Llamadas a Cobrar: Employer / El Empleador Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Local Office/Oficina Local Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
	4. Board Arrangements / Arreglo de Alojamiento Employer is responsible for making arrangements for feeding worker or provide kitchen for cooking.  (see attachment / para más detalles vea 3)	
5. Referral Instructions / Instrucciones para el Referimiento de Candidatos The employer or agent agrees to interview referrals from all sources. Employer's agent agrees to interview all U.S. workers referred by the VEC local or by supply states who have been screened by such employment services for :1) Availability for the entire season. 2) Have transportation to the job site. 3) Have been fully apprised by the employment office of the terms, conditions and nature of employment.  (see attachment / para más detalles vea 3&4)		
10. Job Specifications / Descripción del Trabajo [Summary of Material Job Specifications in ENGLISH must be included inside this box] Pick apples from trees and, when necessary, pick from ladders ranging up to 24 ft in length. The average length of a ladder runs from 16' to 24' and the average weight is approximately 50 lbs. Fruit picked must be placed in picking bags or buckets, which are attached to the body with a shoulder harness and weigh between 30-50 lbs when full. When filled with fruit, the bags or buckets are to be emptied into field bins by releasing an opening at the bottom of the bag or bucket. Workers may be required to pick the entire tree or to spot pick the fruit. Primary duty will be to harvest fruit, however, other harvest duties may be offered including related tasks involving the operation of tractors or hand operated equipment at the pay rate of \$8.85 per hour.  (see attachment / para más detalles vea 4)		
10 a. Descripción del Trabajo / Job Specifications [Summary of Material Job Specifications in SPANISH must be included inside this box] Recoger manzanas de los árboles desde el piso y utilizando escaleras que pueden variar en altura con un máximo de 24 pies. La altura promedio de las escaleras varía desde los 16 pies hasta los 24 pies con un peso aproximado de 50 libras. Las frutas recogidas deben ser puestas en bolsas o cubetas, los cuales se llevan colgando en el cuerpo con cintas de hombros y pueden llegar a pesar entre 30 y 50 libras cuando están llenos. Una vez que las bolsas o cubetas están llenas con frutas deben ser vaciadas en un contenedor de madera ubicado en el campo utilizando una abertura en el fondo de las bolsas o cubetas de colección. Los trabajadores pueden ser requeridos a recoger todas las frutas de un árbol o recoger aquellas frutas que hayan quedado en el árbol luego de la primera recogida. La primera responsabilidad será recoger las manzanas de los árboles, sin embargo, otras actividades envueltas en la recogida de frutas pueden ser ofrecidas a algunos de los trabajadores, incluyendo, la conducción de tractores u otro tipo de equipo operado manualmente con un pago de jornal de \$8.85 por hora.		

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(see attachment / para más detalles vea \_\_\_\_\_)

11. Wage Rates, Special Pay Information and Deductions / Tarifa de Pago, Información Sobre Pagos Especiales y Deducciones (Rebajas)							
Crop Activities / Cultivos	Hourly Wage Salario por Hora	Piece Rate / Unit(s) Pago por Pieza / Unidad(es)	Special Pay (bonus, etc.)	Deductions / Deducciones	YES SI	NO	Pay Period Periodo de Pago
			Pagos Especiales (Bono, ect.)				
Apple Picking	\$ 8.85	\$ .62		Social	**		Weekly / Semanal
	\$	\$		Federal Tax Impuestos Federales	**		
	\$	\$		State Tax Impuestos Estatales	**		Bi-weekly / cada 2 sem.
	\$	\$		Meals (comidas)		X	
	\$	\$		Other (specify)/ Otro		X	Other / Otro

More Details About the Pay/Más Detalles Sobre el Pago

\*\* If applicable, excludes H2A workers.

(see attachment / para más detalles vea 2)

12. Transportation Arrangements / Arreglos de Transportación (Please explain)

(see attachment / para más detalles vea 2&3)

13. Is it the prevailing practice to use Farm Labor Contractors (FLC) to recruit, supervise, transport, house, or pay workers for this (these) crop activity(ies)? Es la costumbre en el area de usar Contratistas Agricolas para reclutar, supervisar, transportar, dar vivienda, ó pagarle a los trabajadores en este/estos tipo(s) de cosecha(s)/sembrado(s)? Yes/Si ☐ No ☒ If you have checked yes, what is the FLC wage for each activity?/Si contesto "Si," cual es el salario que le paga al Contratista Agrícola para cada actividad?

14. Unemployment Insurance provided / Seguro por Desempleo:

Yes ☐ No ☐

15. Workers' compensation insurance provided / Indemnización por accidente de trabajo:

Yes ☒ No ☐

16. Are tools provided at no charge to the workers? / ¿Se le proveen las herramientas de trabajo a los trabajadores sin cargo alguno?

Yes ☒ No ☐

17. List any arrangements which have been made with establishment owners or agents for the payment of a commission or other benefits for sales made to workers. (If there are no such arrangements, enter "None")/Indique todo acuerdo o convenio con los propietarios del establecimiento o sus representantes con respecto al pago de una comisión u otros beneficios por ventas hechas a los trabajadores. (Si no hay ningún acuerdo o convenio, indique "Ninguno")

None/Ninguno

18. List any strike, work stoppage, slowdown, or interruption of operation by the employees at the place where the workers will be employed. (If there are no such incidents, enter "None")/ Enumere todo huelga, paro o interrupción de las operaciones por parte de los empleados en el lugar de empleo. (Si no hay, indique "Ninguno")

None/Ninguno

19. Address of Order Holding Office (include Telephone number)/Dirección de la Oficina donde se Radicó la Oferta (incluya número de teléfono)  
Virginia Employment Commission 100 Premier Place Winchester, VA 22602 540 722-3415

20. Name of Local Office Representative (include direct dial telephone number) / Nombre del Representante de la Oficina Local (Incluya numero de telefono)  
Mac Munoz 540 722-3415

21. Employer's Certification: This job order describes the actual terms and conditions of the employment being offered by me and contains all the material terms and conditions of the job. Certificación del Empleador: Esta orden de trabajo describe los términos y condiciones de trabajo y contiene todos los materiales, terminus, y condiciones ofrecidos.  
Employer's Signature & Title/ Firma y Título del Empleador

✓  
READ CAREFULLY: In view of the statutorily established basic function of the Employment Service as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the ETA nor the State agencies are guarantors of the accuracy or truth-fullness of information contained on job orders submitted by employers. Nor does any job order accepted or recruited upon by the One-Stop Career Center constitute a contractual job offer to which the One-Stop Career Center, ETA or a State agency is in any way a party.  
LEASE CUIDADOSAMENTE: En vista de su función básica establecida estatutariamente el Servicio de Empleo es un intercambio gratis de trabajo para juntar a los empleadores y trabajadores que buscan empleo, ni ETA ni las agencias del estado pueden garantizar la verdad y certeza de la información contenida en la Orden de Trabajo sometida por el Empleador. Tampoco, ninguna orden de trabajo aceptada o reclutada por el Servicio de Empleos constituye una oferta contractual de la cual ETA ni la agencia del Estado son parte

ETA 790 (Rev. July 2004)

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Public reporting burden for the ETA Form 790 is estimated to be approximately 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and reviewing the collection. Respondents obligation to reply to these requirements are mandatory by 20 CFR 653.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing the burden can be sent to the U.S. Department of Labor, Office of Workforce Investment, Room S-4321, Washington, D.C. 20210 (Paperwork Reduction Project 1205-0134).

All references in the Clearance Order to "crews" or "crewleaders" apply only to those persons who are properly licensed as Farm Labor Contractors or those persons who are members of crews of such Farm Labor Contractors and those references do not apply to individual workers who are not members of a crew.

The following provision shall apply only to crews and crewleaders and shall not apply to individual workers who are not members of crews. Crewleader may expect complete examination under the Migrant and Seasonal Agricultural Protection Act (MSPA) for compliance upon arrival. Employer will not accept referrals of crewleaders currently acting in violation of MSPA and will report any crewleader arriving violating MSPA to the appropriate enforcement branch of the Employment and Standards Administration. Crewleader must furnish complete roster of crew members upon arrival at work site, and depending on the functions to be performed and the extent to which such functions are to be performed, crewleader would be responsible for the following items.

1. Crewleaders referred against this job order must have a current and valid farm labor contractor registration as required by MSPA which includes a current transportation authorization. The transportation authorization will be required to be maintained through the entire contract period. Failure to arrive with and maintain the transportation, driving and housing authorizations will result in the immediate dismissal of the crewleader for being in violation of MSPA. Crew members may be hired as individuals.
2. Any and all supervisors or drivers employed by the crewleader must be properly registered and have current and valid Farm Labor Contractor Certificate of Registration, or Employee Cards as required by MSPA.
3. Recruitment of qualified workers.
4. Furnish grower with names, addresses and social security numbers of all members of the crew upon arrival at the work site. The social security number is required to be furnished under the authority of law.
5. Transportation to workers from point of recruitment to job site and return to point of recruitment at end of employment period at no cost to the workers.
6. Transportation of the workers from the camp to the field each workday at no cost to the workers.
7. Any transportation of workers as described in numbers 6 & 7 above by the crewleaders (or the crewleader's employee) to be done only in properly licensed vehicles with adequate insurance coverage as required by law, and properly registered with the Department of Labor and listed on a Transportation Authorized Card, as required under MSPA.
8. Supervision of the workers on the job site to insure that work is completed to the specifications set by the grower.
9. Supervision of the workers in the camp area, and insure that sanitary conditions are maintained. Housing will be approved by the Virginia Department of Health prior to

the arrival of the workers. It will be inspected on arrival of the crew by the grower and crewleader and again at the time of departure of the crew. Crewleader will be held responsible for any damages attributable to the crewleader or any member of the crew over and above normal usage depreciation. Housing may be inspected periodically by the Labor Department, Health Department and the owner. Crewleader will see that the housing occupied by the crew is kept reasonably clean and in sanitary condition, that all garbage, bottles, cans, etc., are removed at least once per week and properly disposed of according to arrangements made with the grower.

10. Crewleader will be responsible for all equipment, ladders, blankets, pillows, bedding, etc., issued to workers by the grower and to be accounted for before final payment is made to the crewleader.
11. Payroll information when crewleader negotiates payroll records:
  - a. Crewleader is responsible for and required to submit to the appropriate Federal and State Agencies, amounts due under Federal and State Unemployment Compensation Insurance Laws for all members of the crew.
  - b. Crewleader is responsible for deductions from worker's pay under F.I.C.A. (Social Security) laws and required to remit same to the appropriate taxing authority. Further, the crewleader will be responsible for the employer's portion of the tax due under the F.I.C.A (Social Security) laws, and required to remit same to the appropriate taxing authority.
  - c. If crewleader assumes the responsibility for maintaining the payroll, then the crewleader must provide the grower the copies of complete, detailed and accurate payroll records prior to any payments from grower to crewleader. These records must include at a minimum the following information:
    - I) Each worker's name, social security number and permanent home address.
    - II) Copies of any work permits required by Virginia Law.
    - III) For each workday, the number of hours of work offered, the number of hours actually worked and the number of units picked by each worker. Any difference in hours of work offered and hours actually worked to be fully explained and written out on daily time sheets.
    - IV) Copy of payroll summary showing the unit rate (or hourly rate) paid to the worker, any make-up pay given workers in order to meet rates guaranteed, the gross payment and all deductions made from each employee.
12. Interstate transportation of workers requires compliance with Interstate Commerce Commission Regulations.
13. Crewleader must provide each individual workers the detailed payroll information as outlined in sections 12 c (iii) and 12 d (iv) above.
14. Grower retains the option of paying workers by individual check or paying the crewleader for distribution to the workers.

Item 3. Workers will be housed without charge in facilities of the Frederick County Fruit Growers' Association at 801 Fairmont Avenue, Winchester, Virginia or housing owned or leased by the Frederick County Fruit Grower's Association or housing owned by the employer (see attached ETA-338). The Frederick County Fruit Growers' housing facilities are shared with the other grower members of the FCFGA and the employer will only be allocated room sufficient to meet his/her requirements, or pro rata share thereof.

All housing complies with applicable Federal housing regulations. Housing consists of frame and cinder block structures as indicated on the attached ES-338. Beds, mattresses, electricity, hot and cold water for bathing and laundry, flush toilets, and showers are provided without charge by the employer. With respect to crews and crewleaders, kitchen with cooking stove and refrigerator is provided to the crewleader, if available – if not, central dining hall will be used. Cooking utensils must be furnished by the crewleader

At such time the crewleader fails to provide the necessary agreed upon number of workers for a pay period, he agrees to immediately give up control and use of the housing and its related facilities, such as the kitchen, dining area, utensils, parking, office, recreational etc., and return full control to the owner of the camp.

It shall be the employer's responsibility to continue to employ the remainder of the crew, and to find comparable housing elsewhere at no cost to the workers. Any crew that is required to relocate will be placed in comparable housing that has been inspected and has been found to be in compliance with Federal Regulations at 20 CFR 654.403 (a) (2).

Any crew which the employer has previously agreed to hire through his/her job order which arrives initially to occupy his/her housing with less than 75% of the requested number of workers may be refused the use of the housing. Said crew or its members will be offered jobs, but may be placed in comparable housing instead of that previously designated in the job order. The purpose of this paragraph is to enable the owner of the housing to make full and complete use of his camp during harvest for housing the necessary complement of workers.

For workers recruited under this job order, the owner of the housing shall within 48 hours of occupancy by the worker post a legible notice in a prominent place at the housing site, with a copy thereof furnished to the local office of the Virginia Employment Commission, stating the particular days and times of the day or week that the housing premises will be open and available for qualified social workers to enter thereon to offer and provide the services to which the workers are entitled. Such notices shall not be unreasonably restrictive in its content. The purpose of said notice is twofold:

1. To inform agencies of times they may expect to find workers at the housing site.
2. To inform workers when to expect the agencies to appear to furnish them services to which they are entitled.

The employer shall provide a suitable burial for the worker if he or she dies during the continuance of the worker's employment hereunder, or in lieu thereof at the request of the next of kin, pay the cost involved in the preparation and transportation of the deceased to the place of origin

Item 4. Employer is responsible for making arrangements for feeding workers. Meals will be available on a weekly basis in the central dining hall at a cost of \$69.30, which is \$9.90 per day. Varied nutritional menus each day consist of two hot meals and a packed lunch. Individual workers are fed in the central dining hall. Due to health and safety regulations, no cooking will be permitted in sleeping rooms. In the event a central dining hall is not available, a designated kitchen will be provided for the workers to prepare and cook their own meals.

With respect to crewleaders and workers who are members of crews, crews that are housed in grower housing will be provided meals by the crewleader at a charge not to exceed the cost to the crewleader

Item 5. Referral of individuals shall be made through the Winchester Office of the Virginia Employment Commission in order to ascertain current employment, crop and housing information and to enable proper

arrangements to be made. It will be the responsibility of the applicant office to inform applicants of the terms and conditions of the Clearance Order. When possible, a translator will be made available. The employer will be available for interviews between the hours of 9:00 A.M. and 4 P. M. Monday through Friday. The Frederick County Fruit Growers Association, as agent, may assist in this process.

The Clearance Order does not constitute an agreement or contract between the employee and the employer until such time the employee has actually worked and has been placed on the payroll of the employer.

Employer agrees to provide each worker hired under this Clearance, no later than the first day of work, a copy of the complete work contract between the employer and the worker.

Item 7. Individual workers are preferred, however, the employer will accept crews with small families. Due to a lack of unlimited housing, all applicants may not be able to be accommodated.

Item 8. A worker may be offered more than 8 hours work per day and, in an emergency, a worker may be requested, but not required to work on his/her Sabbath.

Item 10. using 24' ladders when necessary. The average length of ladders runs from 16-24' in length and weigh approximately 50 pounds. Fruit must be picked in picking bags or buckets which are attached to the body with a shoulder harness and weigh approximately 30-50 pounds when full. When filled with fruit the bags or buckets are to be emptied into field bins by releasing an opening at the bottom of the bag or bucket. Workers may be requested to pick the entire tree or to spot pick. Primary duty will be to harvest fruit, however other harvest related duties may be offered including related tasks involving the operation of tractors or hand operated equipment at \$8.85 per hour. The worker places ladder firmly against or within the tree in a secure position so as not to break limbs or knock off fruit and to prevent slipping or falling. All fruit must be handled with care to avoid bruising. Each worker's tree will be picked according to instructions given each day by the orchard supervisor. Workers will be directed to strip all fruit from the tree at one picking or to selectively pick according to size and/or color depending on crop conditions and state of maturity. Drop picking is done only at the specific instructions of the grower. Fruit picked as juice must not be mixed with fresh market or processing fruit.

Job performance requires visualization of apple size and coloration (spatial perception) and the ability to identify size, shape, cuts and surface defects (form perception) when harvesting apples. Removal of unbruised apples (with reach, lift, and twist) from branch with stem attached requires eye-hand coordination and manual dexterity. Eye-hand-foot coordination is required for balance and ladder climbing to ensure safety and efficiency. Color matching (color discrimination) is needed to identify apple color requirement specified by supervisor

Individual workers are supervised by the employer, or his supervisor, who provides daily transportation, training, job instruction and who keeps payroll records. With respect to crewleaders and workers who are members of crews, the crewleader will supervise those workers in the crew and may be responsible for transporting the crew from the area of recruitment to the areas of employment as well as the daily transportation of workers to the orchard.

The employer or employer's agent will demonstrate to the worker proper picking or processing techniques and will periodically monitor the worker's performance. Additional instruction will be provided as necessary during the 24-hour training period. The employer maintains the right to dismiss a worker, who after the 24 hour training period, continues to exhibit, upon inspection, excess bruising defined as that above the USDA Standard for #1 grade packing fruit.

The employer maintains the right to refuse to accept an obviously unqualified worker or to discharge a malingering or recalcitrant worker who is physically able but does not demonstrate the willingness to perform the job of picking apples.

All tools, supplies and equipment required to perform the duties assigned the worker will be provided by the employer without charge, including deposit charge.

All terms and conditions included in this job order will apply equally to all workers, domestic and foreign, employed under this job order

*JBD*



Item 11. Each worker is paid on a piece rate basis, and will receive \$.62 cents per 2419 cubic inch box of fruit picked. A 2419 cubic inch box is equivalent to 1 1/8 bushels. The minimum rates above 2419 cubic inch box will be paid, but depending upon the following conditions and/or factors, a higher wage, to range from 1 cent to 10 cents per 2419 cubic inch box, may be offered at the time and block when those conditions and/or factors occur: Need for bruise-free picking-definitions: refer to USDA Standard for U.S. extra fancy grade packing fruit (depth of bruise 1/8 inch; area one bruise-5/8 inch, an aggregate area 1/2 inch); hardship-when a worker is required to pick a portion or the employer's orchard, as determined by the employer, in which trees contain an average of less than 30% of a full crop; special handling-example: sort hail damaged fruit; spot picking-example: requiring the worker to harvest only certain apples from the tree based on size and/or color, as determined by the employer; completion of the season. The worker will be notified prior to picking each special area as to the rate of pay. In the event the piece rate per box does not produce the current adverse hourly rate, the employer agrees to guarantee all workers employed in the 2008 season a minimum of \$8.85, which is the adverse effect wage rate, or the prevailing hourly rate as established by the Department of Labor. Other harvest-related duties, which may be offered, will be paid at the hourly rate of \$8.85. If a higher or lower minimum wage applicable to the employer covered by the job order is promulgated during the period of employment covered by the job order, or, at the discretion of the employer, lower wage standard will apply to employment beginning on the effective date of any such new wage statement.

\*As required by regulations the estimated hourly wage rate equivalent is \$8.85. This wage is not a guarantee as crop conditions vary from year to year.

The employer guarantees to offer the worker employment for at least three fourths of the work days of the total period of employment and all extensions thereof are in effect beginning with the first work day after the arrival of the worker at the place of employment and ending on the termination date specified in the job order or in its extension if any. The worker is covered by worker's compensation, which is provided by the employer.

Without prejudice to the employment guarantee for opportunity of doing not less than 75% of full time work during the total employment period, the employer shall provide sufficient work to enable the worker, being willing and able to work, and reporting for work at the job site during specified hours work is available, to earn a sum not less than the sum of \$84.00 (hereinafter referred to as "the stipulated minimum earnings") in respect of each period of two weeks or pay the worker and allowance of a sum which together with the sum earned by the workers during such period will equal the stipulated earnings; or if the workers have had no opportunity to earn any wages during such period, the employer shall pay to the worker a sum in the amount of the stipulated minimum earnings.

Workers are paid weekly. The employer retains the option of paying the workers by individual check or, for workers who are members of crews, paying the crewleader. If the payment to the members of a crew is made by payment to the crewleader, then the crewleader assumes the responsibility of paying the members of the crew. The employer or, where applicable the crewleader will furnish to each worker on each payday an itemized accounting of all earnings and of legal and authorized deductions. To the extent permitted under Federal and State net wage requirements if so requested by the worker, the employer will transfer certain amounts of earnings in a manner consistent with the worker's instructions. The employer is subject to Federal Minimum Wage laws. The piece rate shown on this order is not below the prevailing rate in effect at the date of this job order.

The following provisions apply only to crews and crewleaders: The employer agrees to pay the crewleader an override ranging from 2.4 cents to 14 cents per 2419 cubic inch box, said fee is negotiable according to the number of functions performed such as: supervision, transportation of crew, record keeping, paying of workers, insurance and assuming OASI deductions. This range is offered solely because it is required by the Department of Labor based upon a survey the growers have not seen. The growers reserve their rights to challenge this required crewleader override, if growers determine such survey to be invalid. That further, the crewleader shall be responsible for the payment of OASI and

Unemployment Insurance Taxes, and shall present evidence to the grower, including but not limited to, Federal and State Employer Identification number, that the crewleader is in fact paying taxes.

Item 12. The employer agrees to reimburse individual workers for reasonable transportation expenses and no less than \$9.90 per day for subsistence expenses from the worker's place of recruitment to Winchester, Virginia, who continues under employment for a period of (15) consecutive calendar days, or 50% of the employment period, whichever is shorter. Those workers paying the transportation and reasonable subsistence expenses from the place of recruitment to Winchester, Virginia who are unable to complete the minimum employment for legitimate medical reasons sustained or contracted after arrival, shall also be reimbursed for the same. If, before the expiration date specified in the work contract, services of the worker are no longer required for reasons beyond the control of the employer due to fire, hurricane, or other act of God which makes the fulfillment of the contract impossible the employer may terminate the work contract. In the event of such termination of a contract, the employer shall fulfill the three-fourths guarantee for the time that has elapsed from the start of the work contract to its termination. In such cases the employer will make efforts to transfer the worker to other comparable employment acceptable to the worker. If such transfer is not affected, the employer shall:

- (i) Offer to return the worker, at the employer's expense to the place from which the worker, disregarding intervening employment, came to work for the employer.
- (ii) Reimburse the worker for full amount of any deductions made from the worker's pay by The employer for transportation and subsistence expenses to the place of employment, and
- (iii) Notwithstanding whether the employment has been terminated prior to completion of 50% or the work contract period originally offered by the employer, pay the worker for costs incurred by the worker for transportation and daily subsistence from the place from which the worker, without intervening employment, has come to work for the employer to the place of employment. The amount of transportation payment shall be no less (and shall not be required to be more than the most economical and reasonable similar common carrier transportation charges for the distances involved).
- (iv)
- (v) The employer shall provide a suitable burial for the worker if he or she dies during the continuance of the worker's employment, or in lieu thereof, at the request of the next of kin, pay the cost involved in the preparation and transportation of the deceased to the place of origin

In the case of a legitimate medical termination or in case of termination as a result of an act of God, as certified by the Regional Administrator, the employer will also provide or pay the cost of return transportation and subsistence enroute from place of employment to the place of recruitment, except when the worker is not returning to the place of recruitment and subsequent employment with an employer who will bear transportation expenses. The employer shall provide living accommodation and subsistence for the worker from the date of termination of work opportunity, other than for cause, until pursuant to arrangements made by the employer, the worker leaves the place of employment for his return journey to the place of his recruitment. If the worker completes his employment, the employer will provide or pay the cost of return transportation and subsistence enroute from the place of employment to the place of recruitment except when the worker is not returning to the place of recruitment, and subsequent employment with an employer who will bear transportation expenses, in any case reimbursement will not exceed inbound cost. If the worker voluntarily abandons his employment, or is terminated for cause prior to completion of the period of employment, the employer will not be responsible for providing or paying the cost of return transportation and subsistence enroute from the place of employment to the place of recruitment. All transportation provided by the employer will be by common carrier or other transportation facilities which conform to applicable regulations of the Interstate Commission.

Transportation from the worker's on-the-job site living quarters to the place where the work is to be performed will be provided by the employer without cost to the worker.

I, Russell Orchards, as the employer agree to abide by the regulations at 20CFR 655.103, Assurances and 20CFR 653.501.

I hereby request permission for conditional entry into the intra/interstate clearance system so that my job order can be transmitted to labor supply states in a timely manner to facilitate the recruitment of supply workers. My housing was in compliance in 2007, but because of disuse, cannot meet applicable standards at this time.

As a condition to placing my job order into clearance I, certify that 30 days prior to occupancy my housing will meet standards of the U.S. Department of Labor.

I also authorize representatives of the State Employment Service, the State Health Department and/or U.S. Employment and Training Administration to inspect the housing I am offering at a reasonable time to verify its condition.

I expect my housing to be occupied by 9/3/08.

Carol Burke  
Agent

7/1/08  
Date

[Signature]  
E.S. Representative

7/1/08  
Date

#### Recruitment Plan 2008

Regulations require recruitment to be done "to an extent no less than that of non-H-2A agricultural employers of comparable or smaller size, in the area of employment."

Based on information received from the Virginia Employment Commission staff and area non-H-2A agricultural employers, the general recruitment policies are:

Either contact last year's workers and/or crewleaders or are contacted by those workers and/crewleaders.

Those growers who use crewleaders work with the same people year to year.

Some growers place an ad in the local newspapers

Based on this information, we are submitting the following plan:

1. Last year's workers and/or crewleader are being/will be contacted.
2. Employment Service office in labor surplus areas, as designated by DOL, are being/will be contacted.
3. Large ads will be placed in two area newspapers.
4. Regular contact will be kept with local and state employment offices.
5. New sources of labor will be explored as information is received.

**Total # Workers on This Request 42 Total # of Labor Force Required 42.**

*JBD*

**Employer's Statement Pursuant to 20 CFR Section 655.101 (a) (2)**

The undersigned employer, pursuant to 20 CFR Section 655.101 (a) (2), does hereby authorize the Frederick County Fruit Growers Association, Inc., to act as my agent and on my behalf for the purpose of signing and filing an Application for Temporary Alien Agricultural Labor Certification and to do any and all other acts necessary to pursue and obtain such Certification. My said agent is specifically authorized to make hiring commitments on my behalf; provided however, that my agent is specifically not authorized to hire, pay, fire, supervise or otherwise control the work of any employee.

As employer, I assume full responsibility for the accuracy of the Application, for all representations made by my said agent on my behalf, and for the compliance with all regulatory and other legal requirements.

Employer Signature: *James B. Douglas* Date: *07/01/08*  
*RUSSELL ORCHARDS, LC*

The Frederick County Fruit Growers Association, Inc, does hereby certify that is acting only as agent for the above employer/member with respect to its Temporary Alien Agricultural Labor Certification Application. Frederick County Fruit Growers Association, Inc., is neither the employer or a joint employer of the workers requested, and the individual employer/member above, retains the full power to hire, pay, fire, supervise and otherwise control the work of all workers requested through the Employment Service, except to the extent that Frederick County Fruit Growers Association, Inc. has been specifically authorized to make hiring commitments on behalf of the employer/member.

Frederick County Fruit Growers Association, Inc., Agent

By: *Carol Burke* Date: *7/1/08*

Virginia Employment Commission  
Winchester Local Office

Virginia Comision de Empleo  
La Oficina de Winchester

Summary of Employment Conditions  
Specified on Job Order

1. Order Number: VA107345
2. Name of Employer: Russell Orchards LC
3. Location of Employer and Directions:  
From Winchester, Rt 37 East to Welltown Road  
left on Welltown Road, 3 miles orchard on right
4. Period of Employment:  
From: 09-03-08 To: 11-05-08
5. Work Schedule: 8 hours per day, 5 days per week  
Plus 4 hours on Saturday
6. Crop and Pay:

Crop: Apples

Hourly Wage: \$8.85

Unit of Production 2419 Cu In Bx  
Piece Rate = 1 1/8 US Bu

Piece Rate \$ .62 per box

Estimated Hourly Wage \$8.85

Piece rate to generate at least the current adverse effect wage rate, if any. Those workers unable to earn the equivalent of the adverse effect wage rate by the end of the 24-hour training period may be terminated. Worker's earnings are based on a piece rate.  
Bonus: See item 9 of Job Order

7. Work Tasks To Be Performed:

Regular: Pick apples from trees using ladders and picking bags. Spot or strip picking as instructed by employer or supervisor. Alternate tasks and pay during first week in case of crop Delay. (See Item 12)

None

8. Transportation Provided: From Labor Camp to Orchard and Return X Yes      No

Sumario de las Condiciones de Empleo Que Son  
Especificadas en el Orden de Trabajo

1. Numero de el Orden: VA107345
2. Nombre Del Empleador: Russell Orchards LC
3. Lugar y Direccion del Empleador:  
From Winchester Rt 37 East to Welltown Road  
left on Welltown Road, 3 miles orchard on right
4. Periodo de Empleo:  
Del: 09-03-08 A: 11-08-08
5. Horario de Trabajado: Horas por dia 8, numero de dias por semana 5 y 4 horas Sabado
6. Cosecha Y Pago:

Cosecha Manzanas

Sueldo Por Hora \$8.85

Unidad de Produccion: 2419 Cu In Bx  
= 1 1/8 US Bu

Pago por Unidad \$ .62 por caja

Calculo anticipado de las ganancias por hora \$8.85  
Tarifa por destajo garantiza un salario no menor que el en efecto, si hay uno. Los trabajadores ganando menos que el salario efectivo a fines de las 24 horas de entrenamiento podran ser despedidos. Las ganancias estan basadas en la tarifa por destajo.  
Pago adicional: (Vea Numero 9 en el Orden de Trabajo)

7. Labores a Desempenar en el Trabajo:

Normales: Piscar manzanas de los arboles trabajando en escaleras y llevando cubo. Piscar toda o seleccionar siguiendo instrucciones del paton. Labores alternativas y pago por la primera semana en caso de demora en la cosecha. (Vea Numero 12 en el Orden):

Ninguno

8. Transportacion Provista: Del Encampamento al la huerta y Vuelta X Yes      No

TBD

9. Housing can Accommodate 1044 People  
☒ Individuals  
☒ Families

10. Meals: (Central Mess)

Provided: ☒ Yes ☐ No

If yes: Cost per day \$9.90  
(See item 13 in Job Order)

Workers may do their own cooking:

☐ Yes ☒ No

11. Deductions:

Type	Amount
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Social Security	<input checked="" type="checkbox"/>
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Income Tax	<input checked="" type="checkbox"/>
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Meals: See Paragraph 13 of Job Order

Transportation	<u>None</u>
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Tools/Equipment	<u>None</u>
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Crew leader Charges	<u>None</u>
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12. Notes to Workers:

A copy of the full job order is available for inspection in this office.

The employer has guaranteed your first week's wages unless he/she notifies this Job Service of a later starting date by: 08-27-08

In order for you to be eligible for this guarantee, you must contact the Job Service at:

Virginia Employment Commission  
100 Premier Place  
Winchester, VA 22602  
540-722-3415

During the period: 08-20-08 to 08-27-08  
Any Job Service office will assist you in doing this.

9. Vivienda Disponible Para 1044 Personas

☒ Individuos  
☒ Familias

10. Comidas Provistas: (Cocina)

☒ Si ☐ No

Si so provistas, el costo por día es \$9.90  
(Vea Numero. 13 en el Orden de Trabajo)

Los trabajadores tienen que cocinar sus comidas:

☐ Yes ☒ No

11. Deduccions:

Clase	Cantidad
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Seguro Social	<input checked="" type="checkbox"/>
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Impuestos Sobre Ingresos	<input checked="" type="checkbox"/>
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Comidas: Vea Numero 13 en la Orden de Trabajo

Transportacion	<u>Nada</u>
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Herramientas/Maquinaria	<u>Nada</u>
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Suma Cobrada por el Contratista de Trabajadores Agricolas	<u>Nada</u>
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12. Notas Para los Trabajadores:

Una copia del orden completa esta disponible en la oficina par su inspeccion:

El empleador ha garantizado el pago por su primera semana de empleo, a menos que este notifique al Servicio de Empleos que la fecha de comenzar a trabajar sera atrasada, y que tal notification sea a mas a tardar el: 08-27-08

Para que Ud. pueda tener derecho a esta garantia de pago, tendra que ponerse en contacto con:

Virginia Comision de Empleo  
100 Premier Place  
Winchester, VA 22602  
540-722-3415

Durante el periodo del: 08-20-08 al 08-27-08

Cualquier Oficina del Servicio de Empleos le asistira .

**Virginia Employment Commission  
Community Services for Frederick and Clarke Counties**

**Maintains Health Clinic at the  
Frederick County Fruit Growers  
Labor Camp, 801 Fairmont Ave.  
Winchester, Virginia.**

Shenandoah Valley Medical Sys  
P.O. Box 3236  
Martinsburg, WV 25401  
540 722-2369

**Administers Programs in the  
Prevention of Tuberculosis &  
Venereal Disease. Medical  
Services & Advice for Expect-  
ant Mothers and Newborns.**

Winchester/Frederick County  
Health Department  
150 Commercial Street  
Winchester, VA 22601  
540 722-3470

Clarke County  
Department of Health  
21 S. Church Street  
Berryville, VA 22611  
540 955-1033

**Available For a Full  
Range of Medical Services**

Winchester Medical Center  
1840 Amherst Street  
Winchester, VA 22601  
540 722-8000

**Provides Medical Assistance**

Free Clinic  
E. Cork Street  
Winchester, VA 22601  
540 662-4067

**Provides Day Care Assistance**

U. S. Department of Labor  
Winchester Migrant Head Start  
100 Pegasus Court, Suite 102  
Winchester, VA 22602  
540 662-4357

**These Agencies May  
Provide Meals/Overnight  
Lodging & Other Emergency  
Assistance.**

Salvation Army  
300 Fort Collier Road  
Winchester, VA 22602  
540 667-4777

Winchester Rescue Mission  
301 N. Cameron Street  
Winchester, VA 22601  
540 667-8460

C-CAP  
415 N. Cameron Street  
Winchester, VA 22601  
540 662-4318

**Provides Food Pantry  
Housing Assistance and  
Other Emergency Services**

**May Provide Legal  
Assistance to Worker**

The VA Justice Center  
for Farm & Immigrant Workers  
Charlottesville, VA 22902  
800 763-7323

**Provides Services to Qualifying  
Persons & Refers to Support Svcs**

Winchester Dept Social Services  
33 E. Boscawen Street  
Winchester, VA 22601  
540 662-3807

Northern Shenandoah Valley  
Immigrant Resource Center  
300 Fort Collier Road  
Winchester, VA 22603  
540 476-0635

Clarke County Social Services  
32 E. Main Street  
Berryville, VA 22611  
540 955-3700

**Area Education Departments**

Migrant Education  
100 Cedarmeade Avenue  
Winchester, VA 22601  
540 662-7656

Frederick County Schools  
1415 Amherst Street  
Winchester, VA 22601  
540 662-3888

Clarke County Public Schools  
309 W. Main Street  
Berryville, VA 22611  
540 955-6102

Winchester Public Schools  
12 N. Washington Street  
Winchester, VA 22601  
540 667-4253

**These Agencies Also Provide  
Assistance to Workers**

United States Dept of Justice  
Immigration & Naturalization  
Arlington, VA 22203  
202 307-1504 or 202 307-1626

VA Department of Labor  
P.O. Box 77  
Verona, VA 24482  
540 248-9280

Social Services Administration  
12 Ricketts Drive  
Winchester, VA 22601  
540 667-1512 or 800 722-1213

VA Department of Labor  
Wage & Hour Division  
201 Lee Highway  
Verona, VA 24482  
540-248-9280